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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-659

13 **DENISE ALANE GOLDMAN**
11586 County Road 1
Uriah, AL 36480

A C C U S A T I O N

14 **Registered Nurse License No. 586883**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about September 6, 2001, the Board of Registered Nursing issued Registered
23 Nurse License Number 586883 to Denise Alane Goldman (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein, expired on
25 August 31, 2011, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

... "

6. Section 2725 of the Code states:

"(a) In amending this section at the 1973-74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973-74 session to provide clear legal authority for functions and procedures that have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses. These organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

1 (b) The practice of nursing within the meaning of this chapter [the Nursing Practice Act]
2 means those functions, including basic health care, that help people cope with difficulties in daily
3 living that are associated with their actual or potential health or illness problems or the treatment
4 thereof, and that require a substantial amount of scientific knowledge or technical skill, including
5 all of the following:

6 (1) Direct and indirect patient care services that ensure the safety, comfort, personal
7 hygiene, and protection of patients; and the performance of disease prevention and restorative
8 measures.

9 (2) Direct and indirect patient care services, including, but not limited to, the
10 administration of medications and therapeutic agents, necessary to implement a treatment, disease
11 prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician,
12 dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety
13 Code.

14 (3) The performance of skin tests, immunization techniques, and the withdrawal of human
15 blood from veins and arteries.

16 (4) Observation of signs and symptoms of illness, reactions to treatment, general behavior,
17 or general physical condition, and (A) determination of whether the signs, symptoms, reactions,
18 behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based
19 on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or
20 changes in treatment regimen in accordance with standardized procedures, or the initiation of
21 emergency procedures.

22 (c) 'Standardized procedures,' as used in this section, means either of the following:

23 (1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2
24 (commencing with Section 1250) of Division 2 of the Health and Safety Code through
25 collaboration among administrators and health professionals including physicians and nurses.

26 (2) Policies and protocols developed through collaboration among administrators and
27 health professionals, including physicians and nurses, by an organized health care system which
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1 is not a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of
2 Division 2 of the Health and Safety Code.

3 The policies and protocols shall be subject to any guidelines for standardized procedures
4 that the Division of Licensing of the Medical Board of California and the Board of Registered
5 Nursing may jointly promulgate. If promulgated, the guidelines shall be administered by the
6 Board of Registered Nursing.

7 (d) Nothing in this section shall be construed to require approval of standardized
8 procedures by the Division of Licensing of the Medical Board of California, or by the Board of
9 Registered Nursing."

10 (e) No state agency other than the board may define or interpret the practice of nursing for
11 those licensed pursuant to the provisions of the chapter, or develop standardized procedures or
12 protocols pursuant to this chapter, unless so authorized by this chapter, or specifically required
13 under state or federal statute. 'State agency' includes every state office, officer, department,
14 division, bureau, board, authority, and commission."

15 7. California Code of Regulations, title 16, section 1443, states:

16 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
17 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
18 exercised by a competent registered nurse as described in Section 1443.5."

19 8. California Code of Regulations, title 16, section 1443.5 states:

20 "A registered nurse shall be considered to be competent when he/she consistently
21 demonstrates the ability to transfer scientific knowledge from social, biological and physical
22 sciences in applying the nursing process, as follows:

23 (1) Formulates a nursing diagnosis through observation of the client's physical condition
24 and behavior, and through interpretation of information obtained from the client and others,
25 including the health team.

26 (2) Formulates a care plan, in collaboration with the client, which ensures that direct and
27 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
28 for disease prevention and restorative measures.

1 (3) Performs skills essential to the kind of nursing action to be taken, explains the health
2 treatment to the client and family and teaches the client and family how to care for the client's
3 health needs.

4 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
5 subordinates and on the preparation and capability needed in the tasks to be delegated, and
6 effectively supervises nursing care being given by subordinates.

7 (5) Evaluates the effectiveness of the care plan through observation of the client's physical
8 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
9 communication with the client and health team members, and modifies the plan as needed.

10 (6) Acts as the client's advocate, as circumstances require, by initiating action to improve
11 health care or to change decisions or activities which are against the interests or wishes of the
12 client, and by giving the client the opportunity to make informed decisions about health care
13 before it is provided."

14 9. Section 118, subdivision (b), of the Code provides that the suspension/
15 expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of
16 jurisdiction to proceed with a disciplinary action during the period within which the license may
17 be renewed, restored, reissued or reinstated.

18 COSTS

19 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
23 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
24 included in a stipulated settlement.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Incompetence)**

3 11. Respondent is subject to disciplinary action under section 2761, subsection (a),
4 subparagraph (1) of the Code, as defined in California Code of Regulations, title 16, section 1443
5 and 1443.5, in that she did not possess and/or failed to exercise that degree of learning, skill, care
6 and experience ordinarily possessed and exercised by a competent registered nurse. The
7 circumstances are as follows:

8 a. On August 5, 2010 to August 6, 2010, Respondent was a registered nurse at the Labor
9 and Delivery Unit at Ridgecrest Regional Hospital during the 1900 hours to 0700 hours shift. She
10 was the only registered nurse attending the unit.

11 b. On that same day, at approximately 2330 hours, patient CD, twenty seven years old,
12 arrived on the unit with complaints of irregular uterine contractions and discharge. Respondent
13 placed patient CD, who was thirty eight weeks pregnant on an Electronic Fetal Monitor (EFM)
14 and assessed her.

15 c. The Fetal Heart Rate (FHR) tracing began at 0006 hours on August 6, 2010 and
16 indicated a baseline rate of 135 beats per minute (bpm) and began to decelerate at 0008 hours to
17 60 bpm with a uterine contraction returning to a baseline of 135 bpm by 0011 hours.

18 d. Shortly after the FHR tracing began on August 6, 2010 and prior to 0011 hours,
19 Respondent notified a doctor, Dr. BM, of patient CD's status and deceleration. Respondent also
20 requested intravenous (IV) hydration.

21 e. The FHR tracing was not reassuring and remained at a Category 3, as defined by the
22 National Institute of Child Health & Human Development. An increase in heart rate was noted in
23 the nurse's notes by Respondent at 0200 hours, 0230 hours, 0300 and 0400 hours. Respondent
24 also documented that there was no variability.

25 f. At 0429 hours, Respondent documented that the fetal heart rate had decreased to 122
26 bpm, very minimal variability, and no accelerations or decelerations.

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1 g. Respondent did not notify a physician when the IV failed to correct the FHR tracing
2 and the FHR remained non-reassuring, at a Category 3, after 0011 hours and before 0630 hours
3 on August 6, 2010. Respondent did not meet the standard of care in caring for patient CD and in
4 interpreting a FHR tracing when she failed to notify the physician of a non-reassuring FHR
5 tracing.

6 h. A charge nurse, DW, passed through the unit on at least two occasions between 2350
7 hours on August 5, 2010 and 0630 hours on August 6, 2010 and expressed concern over the FHR
8 tracing. She also advised Respondent to contact the patient's physician of the non-reassuring
9 tracing.

10 i. At approximately 0630 hours, Respondent notified patient CD's primary physician,
11 RK, of the patient's status, including the non-reassuring state of the FHR tracing.

12 j. Following Respondent's end of shift and shift change at 0700 hours, the oncoming
13 registered nurse, BP, was concerned enough to again notify Dr. RK at 0708 hours and begin nurse
14 measures to correct the FHR. Measures included applying oxygen per face mask and maternal
15 position change. Nurse BP attempted several times to notify Dr. RK of the patient's condition
16 and spoke to him at approximately 0753.

17 k. Dr. RK arrived at 0819 hours and called an Emergency Cesarean (STAT C/S) at 0820
18 hours.

19 l. Patient CD's baby was delivered at 0851 and was transported to Loma Linda
20 University Medical Center for the Neonatal Intensive Care Unit.

21 m. Respondent's contract at the facility was terminated following the incident.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct)

24 12. Respondent is subject to disciplinary action under section 2761, subsection (a), in that
25 she engaged in unprofessional conduct. Complainant refers to, and by this reference incorporates
26 the allegations set forth above in paragraph 11, inclusive, as though set forth fully.

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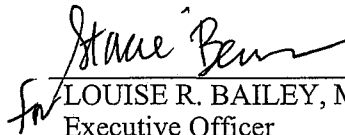

1 **PRAYER**

2 THEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 586883 issued to Denise
5 Alane Goldman;

6 2. Ordering Denise Alane Goldman to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: February 21, 2013 
11  LOUISE R. BAILEY, M.ED., RN
12 Executive Officer
13 Board of Registered Nursing
14 Department of Consumer Affairs
State of California
Complainant

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